INSTITUTE OF CERTIFIED PUBLIC ACCOUNTANTS OF UGANDA

FINANCIAL YEAR 2019/2020

BUDGET PROPOSALS

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EXECUTIVE SUMMARY

The Institute of Certified Public Accountants of Uganda (ICPAU) successfully held its sixth Economic Forum under the theme: Supporting the Economic Growth and Development Agenda and a Taxation Seminar where the overall goal was to come up with tax and policy suggestions that could drive Uganda's economy to middle income status. This paper highlights key tax and economic policy measures aimed at enhancing efficiency in tax collections and management by providing clear suggestions on how to expand the tax base, correct unclear provisions within the tax laws to ensure certainty and give guidance on other relevant economic policy measures.

The paper details each policy recommendation giving the current provisions of the law, the challenge arising from the current status and the proposed suggestion. The proposals enlisted within the paper include;

- Creating a specific tax office for high tax net worth individuals
- Enhancing youth employment
- Harmonising provisions relating to rental income
- Enhancing collaborations with other agencies
- VAT cascade – 'VAT on VAT' on disposal of business assets
- Voluntary disclosure of tax liability
- Capital gains tax – indexation
- VAT – interest on over payments and late refunds

INTRODUCTION

The Institute of Certified Public Accountants of Uganda (ICPAU) on annual basis prepares budget proposals mainly emanating from recommendations from its members.

ICPAU successfully held its sixth Economic Forum under the theme: Supporting the Economic Growth and Development Agenda and a Taxation Seminar at which 2018/2019 budget proposals were generated. The discussions and recommendations at the above engagements have been properly documented and hereby presented for consideration.

This paper covers, ICPAU proposals highlighting the present situation, challenges brought about by existing Tax provisions, proposed amendments and justification of the proposals.

It is hoped that the proposals in this paper will be considered for widening the tax base and for the better administration of taxes.

PROPOSAL ONE: CREATING A SPECIFIC TAX OFFICE FOR HIGH TAX NET WORTH INDIVIDUALS

Title	**Creating a Specific Tax for High Tax Net worth Individuals**
Current Law	N/A
Anomaly/ Challenge	There are a number of individuals in the country who own or have accumulated wealth that is unexplainable. Such individuals possess expensive fleets of cars, huge mansions and have been seen openly engaging in a lot of philanthropy work. Such wealth seems not to correspond with the amount of tax such individuals pay.
Proposed Measure	URA can intensify efforts to bring more high net worth individuals—mainly those in the political, business class, socialists and any other individuals with unexplained incomes into the tax net. Forming a separate unit dedicated to these types of individuals—that is distinct from the large tax office, can prove worthwhile. Clear measures targeting these individuals should be developed for example requiring all candidates vying for political offices from LC III up wards to have obtained a tax clearance certificate which would ascertain their tax compliance status, disclosure of information relating to the source of wealth by such individuals among others.
Justification	It is a common requirement in most countries for political leaders to be held accountable when it comes to tax affairs. It will widen the tax base as many high net income individuals will be captured in the URA register

PROPOSAL TWO: ENHANCING YOUTH EMPLOYMENT

Title	Enhancing Youth Employment
Current Law	N/A
Anomaly/Challenge	Uganda has one of the highest population growth rate of about 3.18 % which is the sixth highest in the world.[1] This high population growth rate has ensured a steady rise in the number of job seekers in a largely rural and agrarian economy whose capacity to create decent employment is rigid. Furthermore, Uganda has a very young population with about 50 % of the population estimated to be below 15 years, while the youth population between 18-30 years accounts for about 22% of the population or 7.7 million people (UBOS 2013) The unemployment rate in Uganda, measures the number of people actively looking for a job as a percentage of the labour force. Unemployment Rate in Uganda increased to 2.10 percent in 2017 from 2 percent in 2016. Youth unemployment stands at between 64% and 70% yet an estimate of over 400,000 youths are released annually into the job market to compete for approximately 9,000 available jobs. About 30% of the youths who are institutionally qualified in Uganda are unable to find jobs, and the situation is even worse for semiskilled and unskilled youths. Youths who remain unemployed or underemployed and do not exploit their full potential, are often associated with high incidences of drug abuse and gambling (ACODE 2014).
Proposed Measure	We propose to have tax deductions (in respect to VAT import duty) on specific sports equipment.
Justification	This is likely to promote sports and investment in sports which would provide an alternative source of activities to the growing youthful population. The multiplier effect such an investment in sports would have is threefold that is it would promote exportation of sports men and women and hence inflow of the badly needed foreign currency; forward and backward linkages that would result from sports establishments and activities; and it would reduce redundancy among the youth.

[1] https://www.cia.gov/library/publications/resources/the-world-factbook/fields/344rank.html accessed at 31 December 2018

PROPOSAL THREE: ENHANCING COLLABORATIONS WITH OTHER AGENCIES

Title	**Increased collaboration with other Government Agencies**
Current Law	**N/A**
Anomaly/Challenge	Despite, persistent growth in net tax collections by URA over the last decade, the consistent short falls in revenue targets is still a hurdle to reckon with. This is worsened by a macroeconomic environment that does not seem to paint any better picture to support URA's efforts to hit the anticipated revenue targets. For example, an annual average growth of 4.5 percent, continued civil unrest in South Sudan and uncertain weather conditions are likely to subdue exports while the financial sector remains cagey about expanding private domestic credit. All the above leave the tax body with strict compliance and enforcement measures as the most feasible avenues to boost domestic revenue collections. Among these is the famous Taxpayer Register Expansion Project (TREP) that Uganda Revenue Authority (URA) in collaboration with URSB, KCCA and LGs rolled out with an intention to expand the tax register and tax collections. The only limitation with TREP is that it seems not to have been fully implemented among LGs, and concentration is largely in Kampala. However, even in Kampala, there seems to be reliance on data shared by Local Councils with little effort done to enhance these data by way of enabling Local Councils expand the register. The result of this is that a few complaint taxpayers within their respective Local Council are the same individuals subjected to further tax by URA.
Proposed Measure	There is need to devise revenue collection measures to close revenue leakages by building on the success of the implementation of TREP by increasing the number of individual taxpayers on the tax register and vigorously utilizing the existing information technology infrastructure and exploiting the following avenues; ▪ URA in collaboration with LGs should create a comprehensive database for all the eligible taxpayers for efficient identification, assessment and collection. ▪ TIN should be linked to a person's national ID number (for individuals) and company registration number (for organizations). The use of national ID will facilitate information sharing with URA and tracking/authentication of taxpayer transactions. ▪ Additionally, URA can collaborate with a network of actors including other government agencies, banks, employers, utility companies, professional bodies to exchange useful information on potential taxpayers. ▪ There is need for URA to link with LGs to collect data on all let out residential and commercial units, for example, based on ground rent and property tax rates and other information to update rental taxpayers database as a way of expanding collections among real estate sector.
Justification	This will enable widening of the tax base as many new taxpayers will be brought into the tax net.

PROPOSAL FOUR: HARMONISING PROVISIONS RELATING TO RENTAL INCOME

Title	**Harmonising Provisions relating to Rental Income**
Current Law	Section 5(1) of the ITA states that;Subject to, and in accordance with this Act, a tax shall be charged for each year of income and imposed on every person who has rental income for the year of income.
Anomaly/Challenge	The ITA imposes rental tax on any person with rental income. Unlike for other persons, expenses and losses incurred by individuals in generation of the incomes are allowed under section 5(3) but only to a tune of twenty percent of the rental income under section 22 (1)(c). However, a closer look at the definition of 'rental income' under section 2(ddd) of the ITA seems to allow 100 percent deduction of expenditures and losses incurred in deriving rental income by all persons including individuals. This introduces difficulty and confusion in interpreting the law. Like Jason Piper, 'Certainty in Tax, (2014)' notes, the brevity in tax law, while aiding simplicity, can reduce certainty as it opens the gate for subjective interpretations in the absence of detailed definitions. There is therefore a need to improve on the definition as provided to allow for harmonious interpretation.
Proposed Measure	Section 2(ddd) should be amended by deleting the words <u>"with the deduction of any expenditures and losses incurred in respect of the property"</u> for the section to read as follows: **"Rental income", in relation to a person for a year of income, means the total amount of rent derived by the person for the year of income from the lease of immovable property in Uganda**.
Justification	• To ensure certainty and harmonious application and interpretation of the tax law. • To let the aspects relating to allowable deductions in computation of rental tax be catered for under sections 4(3)(b) and 22(1)(c) for individuals and partnerships and section 4(3)(c) for other persons.

PROPOSAL FIVE: VAT CASCADE – 'VAT ON VAT' ON DISPOSAL OF BUSINESS ASSETS

Issue	**"VAT on VAT" on disposal of business assets**
Current Law	**Section 18(9) of VAT Act Cap 349 - a sale of a business asset by a taxable person is a taxable supply and Section 28(5) blocks the VAT credit of some assets like motor vehicles transporting sitting persons**
Anomaly/ Challenge	Section 18(9) requires VAT to be charged on a disposal or sale by a VAT taxable person of business assets including Cars/Passenger Automobiles, residential accommodation for staff, and assets acquired for non- business use. However, under Section 28(5) of the VAT Act, the respective input tax credit on acquisition of such assets is prohibited from being claimed. The future sale of the above assets will attract VAT, with no relief for the input VAT that was disallowed at the time of acquisition. This goes against international principles of VAT mechanism which prevent VAT from cascading, that is, there being a' tax on a tax'. There is no definition of a business asset in VAT Act Cap 349. A definition is provided in Income Tax Act Cap 340 (Section 2(h), - a ***business asset is defined - '…..to mean an asset which is used or held ready for use in a business, and includes any assets held for sale in a business and any asset of a partnership or company…'*** It appears that this meaning is used by the URA under the VAT Act provisions to the disadvantage of the taxpayer. This is clearly unfair and goes against the canons of taxation as taxpayers pay tax twice since they pay output VAT on disposal or sale yet were denied (disallowed) input VAT at the time of acquisition/purchase.
Proposed Measure	Where input VAT on acquisition of an asset was not allowed by law as is the case with residential accommodation, passenger automobile and other assets, there should be no VAT charged on their eventual sale/disposal. Alternatively, grant a notional input VAT at the time of sale equivalent to what would have been claimed at the time of purchase (based on cost) and that should be set off against the attendant output VAT.
Justification	▪ It removes double taxation or cascading effect that it is against principles of taxation, generally and international VAT principles, specifically. ▪ It makes cost of such assets lower and encourages ownership of assets by different entities, with attendant benefits. ▪ It is logical, makes business sense and concretizes the main idea of input VAT mechanism that makes VAT advantageous over other taxes

PROPOSAL SIX: VOLUNTARY DISCLOSURE OF TAX LIABILITY

Title	Voluntary Disclosure of Tax Liability
Current provision	Section 136(1) of the ITA states that a person who fails to; a) pay any tax, including provisional tax; b) any penal tax; or c) any tax withheld or required to be withheld on payment by the person to another person, on or before the due date for payment is liable for interest at a rate equal to two per cent per month on the amount unpaid calculated from the date on which the payment was due until the date on which payment is made.
Anomaly/ Challenge	Voluntary disclosure to URA of genuine errors like under payment of tax liabilities or discovery of un-intentional error while undergoing tax audits or tax health checks should be encouraged, so that taxpayers can put their affairs right in a simple and straight forward way. Currently taxpayers are subjected to interest and penalty on the principal tax outstanding, despite disclosing anomalies voluntarily to URA before being discovered. Taxpayers are thus discouraged from making voluntary disclosure about the errors made. This is because whether self-disclosed or discovered by URA, the taxpayer suffers more or less the same consequences. The law should encourage voluntary compliance by allowing voluntary disclosure without penalties which will increase voluntary compliance and ensure maximum tax collection at lowest cost to URA, provided waiver of penalties shall be in respect of unintentional errors.
Proposed Measure	Section 136 of the ITA should be amended to include the statement; a) "Where a taxpayer discovers that tax declared is less than the true tax due, as a result of reasonable circumstances, subsequent to filing a return of income and voluntarily discloses tax obligations and pays the principal tax to URA, the interest and penalties due owing on the principal tax shall be automatically waived." b) Reasonable circumstances shall include unintentional errors, errors arising out of application of new legislation, errors not exceeding 10% of the correct tax liability and any other genuine explanations. c) A taxpayer who benefits from this section commits to submitting subsequent tax returns in their fair position. Should the taxpayer use this section more than once in three (3) years, automatically a Tax audit must be carried out.
Justification	• Increased tax revenue at no or minimal collection costs to URA. • It enhances a culture of voluntary tax compliance. • It rewards compliance by encouraging voluntary compliance culture that will reduce taxpayer apathy. • It will reduce on the need to give rewards like the previously granted (10%) to informers.

PROPOSAL SEVEN: CAPITAL GAINS TAX - INDEXATION

Title	Capital Gains Tax – Indexation
Current Law	Section 50 of the ITA provides that; “The amount of any gain arising from the disposal of an asset is the excess of the consideration received for the disposal over the cost base of the asset at the time of disposal.”
Anomaly/Challenge	The current provision does not cater for changes in the value of assets that may arise purely from macroeconomic dynamics like inflation. An asset that was acquired 15 years ago cannot be assessed on the same cost base as it was 15 years. The lack of indexation means that a taxpayer is taxed based on imaginary gains instead of real gains (based on indexed values to cater for the effect of inflation).
Proposed Measure	Section 50 of the ITA should be amended to read “The amount of any gain arising from the disposal of an asset is the excess of the consideration received for the disposal over the cost base of the asset at the time of disposal adjusted by the prevailing consumer price index (CPI) published by Uganda Bureau of Standards (UBOS).”
Justification	To cater for changes in the value of an asset due to macroeconomic dynamics, specifically removing the effect of inflation from the gain in asset values.

PROPOSAL EIGHT: VAT – INTEREST ON OVER PAYMENTS AND LATE REFUNDS

Title	**Interest on Over Payments and Late Refunds**
Current Law	Section 44 (1) of the VAT Act provides that, "Where the Commissioner General is required to refund an amount of tax to a person as a result of--- (a) a decision under S. 33B; (b) a decision of the Tax Appeals Tribunal; or (c) a decision of the High Court, the Court of Appeal or the Supreme Court, he or she shall pay interest at a rate of 2% per month compounded on the tax to be refunded." **Section 44 (3): W**here the Commissioner General finds, after conducting an investigation of any amount shown as an excess in terms of Section 42 (1), that the excess amount of input tax credit is greater than the true amount due in excess of not less than fifty thousand, no interest shall be payable under subsection (2) where there has been a delay in making the refund
Anomaly/Challenge	Section 44 (3) seems very unclear. It leads to difficulty in establishing whether the interest should or should not be paid where the excess of the input tax credit is greater than the true amount due in excess of not less than fifty thousand shillings.
Proposed Measure	We propose to amend Section 44 (3) to read as follows; "Where the Commissioner General finds, after conducting an investigation of any amount shown as an excess in terms of Section 42 (1), that the excess amount of input tax credit is greater than the true amount due, no interest shall be payable under subsection (2) incase of any delay in making the refund, where the amount in excess is less than fifty thousand shillings."
Justification	To ensure certainty of tax provisions.

PROPOSAL NINE: OTHER ECONOMIC POLICY MEASURES

Proposed Measure	(a) To industrialise, Uganda should also invest in cultural mindset shift in addition to investing in infrastructure, machinery and equipment. (b) Uganda should invest in agro-industrialisation, first using industrial policy as opposed to the currently pursued policy based on private sector-led model. (c) In order to build a robust industrial sector, government should capitalise the revived Uganda Development Corporation (UDC) and the Uganda Development Bank (UDB). (d) To increase local participation (local content) in infrastructure development, government should build capacity of local construction firms by encouraging Ministries Departments and Authorities (MDAs) to offer special treatment to local contractors. (e) In order to improve performance of public projects and attract financing, there is need for government to improve project preparation through improvement of the quality of feasibility studies, compensations, and overall public investment management. This will help to reduce delay of completion of infrastructure projects such as *"roads that take unexplainable years"* to get finished. (f) To improve sustainability of infrastructure, building of new roads should be done alongside maintenance of existing road stock. (g) To achieve the population dividend, government and other stakeholders should invest *more* in health, education and skilling of Ugandans. Budget allocation to human development should not be traded-off for infrastructure development. (h) To improve productivity of agricultural sector, there is need to invest *more* in research and development (particularly in high yielding varieties), fertilizers, irrigation, post-harvest management and value addition. (i) There is need to focus more resources towards the coffee subsector. It holds the key for unlocking productivity growth and household incomes in Uganda. (j) There is need to organise farmers into groups and associations to enable proper planning and interventions such as farmer education, extension services, and input provision. (k) There is need to invest more in tax efficiency to minimise the cost of ensuring compliance and the cost of revenue collection. (l) Efforts to reduce government expenditure and corruption should precede efforts to increase revenue collection, itself a responsibility of

	the entire government (not URA alone). Government must learn to spend within the approved budget (fiscal discipline) to avoid poor budget performance and increased pressure on revenue. (m) All non-tax revenues should be handed over to URA (including court fees, fines, penalties and other appropriations-in-aid) to boost revenue collection and improve the tax/GDP ratio. (n) There is need to build capacity within URA to assess the forthcoming oil and gas sector. (o) New tax proposals should be based on research and feasibility studies to mitigate *bad* taxes with wrong or counter-productive economic distortions. (p) Create non-tax based incentives like one stop center for new investments (both local and foreign) and abolish the selective tax exemptions/holidays. (q) Promptly refund tax due to taxpayers to save them from financial strain for faster growth and more tax in the future. (r) Government should put more effort in making Uganda more attractive for business and more productive to create more taxable incomes. (s) There is need to increase citizen's participation in the budget making process and also allow more time for legislation to improve budget credibility and legitimacy. (t) In order to restore fiscal discipline, Ministry of Finance, Planning and Economic Development should take lead in matters of economic and financial planning instead of leaving it to politicians. (u) There is need to create a secure political environment to attract more and better long term investments. (v) Government of Uganda should follow up and implement the ideas proposed by private sector to incentivise local entrepreneurs to redirect investments into the tradable sector.